

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

United States of America,)	
)	
Plaintiff,)	CRIMINAL
)	NO. 05-01076-JGD
v.)	
)	
Francoise Ngele Bundu,)	
)	
Defendant.)	

DECLARATION OF ANDREW C. PHELAN

I, Andrew C. Phelan, declare under the penalty of perjury that the following is true:

1. I am a partner with the law firm of Bingham McCutchen LLP, counsel to Defendant Francoise Ngele Bundu.
2. I am over 18 years old, am not a party to this action, and understand the obligations of an oath.
3. I entered an appearance as defense counsel in this case in March 2006.
4. In May 2006, I met with the assigned Assistant United States Attorney ("AUSA") to urge the government not to indict based on certain facts identified during the investigation of this matter. At the government's request, I provided government counsel with a detailed letter dated June 1, 2006, which set forth the factual basis that demonstrated the domestic violence affirmative defense that Ms. Bundu had to the threatened international parental kidnapping charge.
5. After sending the proffer letter to the AUSA on June 1, 2006, I left two voicemails for the AUSA in June.
6. The AUSA returned my call in June, stating that he had received the June 1 letter and had circulated it.

7. After hearing nothing further, I left another three voicemails for the AUSA on July 11, July 24, and September 8, 2006.

8. I was able to reach the AUSA when I telephoned him again on September 12. The AUSA stated that the government had not yet made a determination whether to indict.

9. I left another three voicemails for the AUSA on September 29, October 11 and October 16, 2006. In the September 29 voicemail, I left a detailed message that sought closure with respect to the government's decision and noted that Ms. Bundu's ability to find a job was being hampered by the pendency of the kidnapping charge.

10. Receiving no response at all to those voicemails, I faxed a letter to the government on October 17, 2006, seeking resolution either by indictment or dismissal.

11. Receiving no response of any sort, I then caused the October 17 letter to be mailed to the government on October 26, 2006.

12. I left a message for the government on November 18, 2006, and, to the date of this affidavit, have received no response.

Dated: December 8, 2006



Andrew C. Phelan